

IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA
Alexandria Division

RICHARD CLEMONS,

Plaintiff,

v.

JANE AMPAH,

Defendant.

Civil No. 1:17-cv-1115-AJT-MSN

REPORT & RECOMMENDATION

This matter comes before the Court on Plaintiff's Motion for Leave to Proceed *In Forma Pauperis* (Dkt. No. 2). Having reviewed the record and pleadings, the undersigned Magistrate Judge recommends denying the Motion for the reasons that follow.

I. Background

On July 21, 2017, Plaintiff, "a well-known serial filer of meritless claims," filed his first Complaint against Defendant and a Motion to Proceed *In Forma Pauperis*. See *Clemons v. Ampah*, 1:17-cv-824-TSE-MSN (Dkt. No. 3 at p. 1). On September 12, 2017, the Honorable T.S. Ellis, III, issued a Scheduling Order, cautioning Plaintiff that if he "fails to participate in the development of a discovery plan and/or fails to attend the initial pretrial conference, this matter will be dismissed for want of prosecution" (Dkt. No. 7). The following day, a copy of the Scheduling Order was mailed to the address Plaintiff provided, but the mail was returned as undeliverable on September 25, 2017 (Dkt. No. 10). The joint discovery plan was due September 20, 2017. Defendant timely filed a discovery plan, but Plaintiff did not (Dkt. No. 9). As a result, on September 27, 2017, Judge Ellis dismissed the case without prejudice "for want of prosecution, failure to comply with court orders, failure to provide the Clerk of Court with a current address, and failure to monitor the docket for case activity." Order at 1 (Dkt. No. 11). Plaintiff was informed that he could appeal the decision

within 30 days of the Order, by October 27, 2017. *See id.* at 2. Instead, on October 6, 2017, Plaintiff filed an identical Complaint (with the exception of a new mailing address and email address) and his second Motion for Leave to Proceed *In Forma Pauperis* now before this Court. *See Clemons v. Ampah*, 1:17-cv-1115-AJT-MSN (Dkt. Nos. 1–2).

Pursuant to 28 U.S.C. § 1915(e), a court may dismiss a case proceeding *in forma pauperis* if it “determines that . . . the action or appeal—(i) is frivolous or malicious” The objective of this statute is to “discourage the filing of, and waste of judicial and private resources” *Neitzke v. Williams*, 490 U.S. 319, 327 (1989). Having failed to diligently pursue this identical matter before and having failed to appeal the Court’s Order dated September 27, 2017, it would be a waste of judicial resources to permit this matter to go forward now.

II. Recommendation

For the foregoing reasons, the undersigned recommends DENYING Plaintiff’s Motion for Leave to Proceed *In Forma Pauperis*.

III. Notice

By means of the Court’s electronic filing system and by mailing a copy of this Report and Recommendation to Defendants at their address for service of process, the parties are notified as follows. Objections to this Report and Recommendation must be filed within fourteen (14) days of service on you of this Report and Recommendation. Failure to file timely objections to this Report and Recommendation waives appellate review of the substance of this Report and Recommendation and waives appellate review of a judgment based on this Report and Recommendation.

/s/

Michael S. Nachmanoff
United States Magistrate Judge

November 3, 2017
Alexandria, Virginia